

MDR Tracking Number: M5-04-2436-01

Under the provisions of Section 413.031 of the Texas Workers' Compensation Act, Title 5, Subtitle A of the Texas Labor Code, effective June 17, 2001 and Commission Rule 133.305 titled Medical Dispute Resolution - General and 133.308 titled Medical Dispute Resolution by Independent Review Organizations, the Medical Review Division (Division) assigned an IRO to conduct a review of the disputed medical necessity issues between the requestor and the respondent. The dispute was received on April 5, 2004.

The Medical Review Division has reviewed the IRO decision and determined that **the requestor prevailed** on the majority of the issues of medical necessity. Therefore, upon receipt of this Order and in accordance with §133.308(r)(9), the Commission hereby orders the respondent and non-prevailing party to **refund the requestor \$460.00** for the paid IRO fee. For the purposes of determining compliance with the order, the Commission will add 20 days to the date the order was deemed received as outlined on page one of this order.

In accordance with §413.031(e), it is a defense for the carrier if the carrier timely complies with the IRO decision.

Based on review of the disputed issues within the request, the Medical Review Division has determined that **medical necessity was the only issue** to be resolved. The office visits, therapeutic exercises, therapeutic activities and neuromuscular re-education from 04-07-03 through 04-29-03 **were found** to be medically necessary. The office visits, therapeutic exercises, therapeutic activities and neuromuscular re-education from 05-01-03 through 05-12-03 **were not found** to be medical necessary. The respondent raised no other reasons for denying reimbursement for the above listed services.

On this basis, and pursuant to §§402.042, 413.016, 413.031, and 413.019 of the Act, the Medical Review Division hereby ORDERS the respondent to pay the unpaid medical fees in accordance with the fair and reasonable rate as set forth in Commission Rule 133.1(a)(8) plus all accrued interest due at the time of payment to the requestor within 20 days of receipt of this order. This Order is applicable to dates of service 04-07-03 through 04-29-03 in this dispute.

The respondent is prohibited from asserting additional denial reasons relative to this Decision upon issuing payment to the requestor in accordance with this Order (Rule 133.307(j)(2)).

This Order is hereby issued this 9th day of July 2004.

Patricia Rodriguez
Medical Dispute Resolution Officer
Medical Review Division
PR/pr

June 14, 2004

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___ has performed an independent review of the medical records of the above-named case to determine medical necessity. In performing this review, ___ reviewed relevant medical records, any documents provided by the parties referenced above, and any documentation and written information submitted in support of the dispute.

I am the Secretary and General Counsel of ___ and I certify that the reviewing healthcare professional in this case has certified to our organization that there are no known conflicts of interest that exist between him and any of the treating physicians or other health care providers or any of the physicians or other health care providers who reviewed this case for determination prior to referral to the Independent Review Organization.

Information and medical records pertinent to this medical dispute were requested from the Requestor and every named provider of care, as well as from the Respondent. The independent review was performed by a matched peer with the treating health care provider. This case was reviewed by a physician who is certified in Chiropractic Medicine and is currently on the TWCC Approved Doctor List.

REVIEWER'S REPORT

Information Provided for Review:

TWCC-60, Table of Disputed Services, EOB's

Information provided by Requestor: correspondence, office notes, physical therapy notes, ROM exam, FCE, operative and radiology reports, and designated doctor reports.

Information provided by Respondent: correspondence and designated doctor exam.

Information provided by spine surgeon: office notes and operative reports.

Information provided by orthopedic surgeon: office notes.

Information provided by pain clinic: psychological evaluation.

Information provided by pain management specialist: consultation and radiology reports.

Clinical History:

The patient underwent physical medicine treatment, cervical ESI and surgery after injuring her neck while at work on ___.

Disputed Services:

Office visits, therapeutic exercise, therapeutic activities and neuromuscular re-education during the period of 04/07/03 through 05/12/03.

Decision:

The reviewer partially agrees with the determination of the insurance carrier. The treatment and services in dispute as stated above were medically necessary from 04/07/03 through 04/29/03. These treatment and services were not medically necessary beyond 04/29/03 through 05/12/03.

Rationale:

The medical records submitted fully support the position of the peer reviewer's report of 02/27/03 that states, "*Chiropractic treatment would be reasonable at three times per week for four weeks with passive modalities. Then, the claimant should be advanced to active modalities and only occasional passive modalities for a maximum of eight weeks of care from start date.*" The care through 04/29/03 precisely met those criteria since no passive care was rendered and only active care was administered. It was therefore medically necessary.

Physical medicine is an accepted part of a rehabilitation program following an injury. However, for medical necessity to be established, there must be an expectation of recovery or improvement within a reasonable and generally predictable time period. In addition, the frequency, type and duration of services must be reasonable and consistent with the standards of the health care community. General expectations include:

- (A) Patients should be formally assessed and re-assessed periodically to see if the patient is moving in a positive direction in order for the treatment to continue.
- (B) Supporting documentation for additional treatment must be furnished when exceptional factors or extenuating circumstances are present.
- (C) Evidence of objective functional improvement is essential to establish reasonableness and medical necessity of treatment.

In this case, the patient's lack of satisfactory response necessitated a change in treatment after the 8-week period ended on 04/29/03. Several randomized studies^{1 2 3} have proven the effectiveness of spinal manipulation for patients with cervical spine symptoms and conditions. For that reason, it is unclear why previously attempted treatments would be continued while a proper regimen of spinal manipulation would be withheld. Therefore, all treatment from 05/01/03 through 05/12/03 is denied.

Sincerely,

¹ Hurwitz EL, Morgenstern H, Harber P, Kominski GF, Yu F, Adams AH. A randomized trial of chiropractic manipulation and mobilization for patients with neck pain: clinical outcomes from the UCLA neck-pain study. Am J Public Health. 2002 Oct; 92(10):1634-41.

² Hoving JL, Koes BW, de Vet HC, van der Windt DA, Assendelft WJ, van Mameren H, Deville WL, Pool JJ, Scholten RJ, Bouter LM. Manual therapy, physical therapy, or continued care by a general practitioner for patients with neck pain. A randomized, controlled trial. Ann Intern Med. 2002 May 21; 136(10):713-22.

³ Gross AR, Hoving JL, Haines TA, Goldsmith CH, Kay T, Aker P, Bronfort G, Cervical overview group. Manipulation and Mobilisation for Mechanical Neck Disorders. Cochrane Database Syst Rev. 2004;1:CD004249.